

Notice of Allowability

Application No.

10/522,991

Examiner

Ethan Whisenant, Ph.D.

Applicant(s)

MATSUI ET AL.

Art Unit

1634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the paper(s) filed 05 MAR 07.
2. ☒ The allowed claim(s) is/are 1-4.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Art Unit: 1634

NOTICE OF ALLOWABILITY

1. Applicant's election of Group I (**Claims 1-4**) without traverse in the paper(s) filed 05 MAY 07 is acknowledged. Claim(s) 5-10, 12-20 is/are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention. The restriction requirement has been reconsidered, is deemed proper and is therefore, herein made **FINAL**.

SEQUENCE RULES

2. This application complies with the sequence rules and the sequences have been entered by the Scientific and Technical Information Center.

DRAWINGS

3. The drawing(s) filed with this application have been approved by the Examiner under 37 CFR 1.84 or 1.152.

Examiner's Amendment

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this Examiner's amendment was given by Jennifer McCue on 25 MAR 07 during a telephone interview.

Cancel Claims 5-10 and 12-20.

REASON FOR ALLOWANCE

5. **Claims 1-4** are allowable over the prior art of record because the prior art considered does not teach or reasonably suggest the method of detecting nucleic acid using DNA microarrays as recited in Claim 1. In particular, the closest prior art Ban et al. [US 2004/0161801(2004)] do not teach or reasonably suggest, either alone or in combination with the other prior art considered, the method of detecting nucleic acid using DNA microarrays as recited in Claim 1.

CONCLUSION

6. **Claim(s) 1-4** is/are allowable for the reason(s) of record.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ethan Whisenant, Ph.D. whose telephone number is (571) 272-0754. The examiner can normally be reached Monday-Friday from 8:30AM - 5:30PM EST or any time via voice mail. If repeated attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram Shukla, can be reached at (571) 272-0735.

The Central Fax number for the USPTO is (571) 273-8300. Please note that the faxing of papers must conform with the Notice to Comply published in the Official Gazette, 1096 OG 30 (November 15, 1989).



**ETHAN WHISENANT
PRIMARY EXAMINER**

Art Unit 1634